IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.5184 OF 2006

Shri Mahamadgaous Muktumsab Navraj-Inamdar .... Petitioner
Vs.
The Commissioner, Municipal Corporation for the City of Sangli, Miraj and Kupwad .... Respondent

Shri Uday Warunjikar for the Petitioner.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: NOVEMBER 14, 2006

P.C:

1. Heard. The grievance of the petitioner is that though relaxation in the matter of required educational qualification for one time promotion to the post of senior clerk was not granted to the petitioner whereas similar promotion was granted by relaxing the required educational qualification to some other employees and secondly, there was no justification to deny such benefit being granted to the petitioner once the Corporation had passed the necessary resolution recommending relaxation in the matter of educational qualification to the petitioner.

2. Undisputedly, the petitioner does not posses the requisite educational qualification for the promotion to the post of senior clerk and the recommendation made by

the Corporation for relaxation in that regard in favour of the petitioner has not been approved by the competent authority, Being so, the petitioner cannot claim right to be considered for promotion to the post of senior clerk in the facts and circumstances of the case. As regards the persons who are already granted similar facility by giving relaxation in the matter of educational qualification, the respondent-Corporation has clearly distinguished their cases by giving reasons for granting such relaxation in their favour. The said contention has been duly accepted by the Court below and there is no illegality committed in that regard by the Court below while accepting the said explanation.

3. The relaxation in the matter of educational qualification under the provisions of law under which it can be availed pursuant to the same being granted by the competent authority is not a matter of right and it depends on the exercise of discretion by the competent authority in that regard, taking into consideration various facts including the availability of vacancy and requirement of filling-up of such vacancy by the person claiming the benefit of such relaxation.

4. The Courts below after having taken into consideration all the points which were sought to be canvassed including the claim of the petitioner that he

was an ex-serviceman and therefore entitled to be considered for relaxation and bearing in mind that the petitioner does not fill the necessary educational qualification, I do not find any fault with the impugned order nor it discloses any jurisdictional error so as to warrant interference in writ jurisdiction under Article 227 of the Constitution of India. Hence the petition is rejected.

(R.M.S. Khandeparkar, J.)

sjs/1114wp5184.6